



National Association of Judiciary Interpreters & Translators

## NAJIT POSITION PAPER TELEPHONE INTERPRETING IN LEGAL SETTINGS

### ■ INTRODUCTION

Telephone interpreting refers to the practice of supplying or receiving language interpretation services over the telephone. Typically, the interpreter is in a remote location and the interpretation is provided via a teleconference call. Telephone interpreting should only be used when no certified, qualified or language skilled interpreter (particularly in less common languages) is available in person at the location where services are needed.<sup>1</sup>

Telephone interpreting can be used with success in some legal settings, but interpreters and end-users alike should be trained in the appropriate way to utilize such services. Proper equipment is essential to ensure audibility and accuracy. In any legal or quasi-legal proceeding involving individuals with limited English proficiency (LEP), interpreted communication guarantees rights and equal access to justice. Thus, it is essential that interpretation provided over the telephone be of the same standard as “in-person” interpretation. Prior training and orientation for the interpreter are needed for high quality service to be effectively delivered over the telephone.

#### **What role does telephone interpreting play in legal settings?**

Telephone interpreting is one method of providing foreign language interpretation to linguistically diverse populations in rural locations. Telephone interpreting was first introduced as a fee-free service by the Australian government in the 1970s. In the 1980s, it became popular in the United States, especially in commercial venues. In the 1990s, the U.S. federal courts initiated a fee-free telephone interpreting program that allows certified Spanish or otherwise qualified interpreters (in less frequently encountered languages) to provide simultaneous and consecutive interpreting

to federal courts where “in-person” resources were not readily available. Over the past decade, fee-for-service commercial providers proliferated, as well as a number of state court/judicial systems began to offer in-house telephone interpreting services to state and county courts.

Once telephone interpreting was implemented more widely, some concerns arose:

- **Specialization.** Interpreters accessed through commercial services were not necessarily specialists in legal interpreting. However, there were non-specialists providing services in person as well, due to a national shortage of certified or otherwise qualified interpreters in many locations.
- **Connection quality.** Poor quality connections led remote interpreters to make mistakes or request frequent repetitions, resulting in a cumbersome and inefficient process. However, telephone service enabled courts to meet demands where local resources were absent.
- **Costs.** When used for long periods, telephone interpreting was costly. The services were more cost-effective for sessions of short duration.<sup>2</sup>
- **Lack of visual cues.** Over the phone, there are no non-verbal cues; but some claimed the lack of distraction helped interpreters to focus more effectively on the spoken language.

Today, the use of telephone interpreting in legal settings has become common. In 2007, the federal courts’ telephone interpreting program was used by 48 district courts to provide services for more than 3,600 events in 38 languages.<sup>3</sup> By the end of fiscal year 2008, the program had reportedly saved \$6.8 million in travel and contract costs.<sup>4</sup> State and county courts continue to use in-house or commercial telephone interpreting services. Some private-sector providers have devised their own qualification procedures and quality

assurance programs. It is important to note, however, that evaluation by commercial entities is not equivalent to federal or state court certification. For example, some commercial entities test interpreters only for certain scenarios that are not representative of the full spectrum of situations that a court interpreter may encounter.

### **When should telephone interpreting be used?**

Telephone interpreting is best suited to the following circumstances:

- **When no certified, qualified, or language-skilled interpreter is available in person.** One of the benefits of telephone interpreting is the ability to access a certified or qualified interpreter from any location in the United States, possibly on short notice: this is better than failing to provide interpreting services or receiving incompetent services. However, telephone interpreters must be specifically qualified to interpret in legal settings. To ensure that courts, legal professionals or other justice partners are being provided with interpreters who have appropriate certification, training and qualification, the entity requiring services should ask *voir dire* questions of the telephone interpreter just as they would for an in-person interpreter.<sup>5</sup> Telephone interpreters are often used for less commonly requested languages, and during shifts when in-person interpreters may be less accessible.
- **When protecting the interpreter's anonymity is necessary.** Depending on the circumstances and the local resources available, it may be advisable to use a remote interpreter, especially if a local interpreter discloses a conflict of interest (e.g., an existing family, social or professional relationship with the LEP individual) that would compromise neutrality.
- **When the proceedings are of short duration.** Telephone interpreting is best suited to short proceedings, such as arraignments, initial hearings, and interviews for probation and pretrial services. In some areas, telephone interpreting is used for pretrial hearings. However, proceedings such as motion hearings may last for hours or several days. Ideally, telephone interpreting should not be used for lengthy hearings or trials, although occasionally, for trials involving less common languages, it is the only way an interpreter in a given language may be located. Given the length of trials and the fact that there are many individuals involved, a telephone interpreter may

have difficulty following fast-paced proceedings, discerning which voice belongs to which person, or concentrating for long periods without visual cues. Lengthy proceedings can lead to interpreter fatigue, jeopardizing the interpreter's oath of accuracy and undermining equal access and due process to a litigant with limited English proficiency. Some court systems avoid using telephone interpreting for evidentiary matters, and reserve it solely for routine matters where evidence is not presented.

Telephone interpreting services offered by private sector providers are delivered in consecutive mode, meaning that an interpreter must wait until a person finishes speaking before rendering the message in another language. Therefore, commercially provided services are not suited for legal proceedings requiring simultaneous, i.e., real time interpretation. The federal court program and some state court systems use technology designed specifically for the courts to provide both consecutive and simultaneous interpretation. With specialized equipment, a remote interpreter listens on one line while speaking into another line, and can switch between interpreting for the defendant or for the entire courtroom.

### **When should telephone interpreting be avoided?**

Telephone interpreting can be problematic in some circumstances. If individuals are hard of hearing or elderly, or struggling with mental illness, telephone interpreting can be too confusing. Telephone interpreting may be inappropriate or even traumatic for individuals from some cultures. For example, some Cambodians have associated the unknown voice of a telephone interpreter with brainwashing sessions carried out by the Khmer Rouge.<sup>6</sup> Telephone interpreting should be avoided at all costs under such circumstances. If no local interpreter is available and there is no other alternative but to use telephone interpreting, at the very least, extra time is needed to explain that the remote voice belongs to an impartial, unbiased interpreter who is listening and speaking via telephone to enable all parties to communicate.

### **What type of equipment is needed for telephone interpreting?**

Interpreters must have a high-quality headset with a mute button, separate dual volume control (the ability to control independently the volume of the speakers' and the interpreter's voices), and ideally, an amplifier. Such

headsets cannot generally be purchased at mass discount stores or electronic retailers, but are available through specialty stores and online suppliers. Interpreters who use generic headsets from office supply stores or general retailers are often disappointed, as this equipment is not designed to provide the level of auditory fidelity necessary for high-quality telephone interpreting. The federal judiciary's telephone interpreting equipment allows the remote interpreter to switch between the two phone lines in the courtroom, depending on whether the communication is directed to the defendant or the courtroom.

The users of telephone interpreting services must also invest in high-quality equipment. It is usually preferable for each party to have a headset, handset, or microphone, depending on the type of service used. Some courts use speaker phones, but these can be problematic, degrading the sound quality on both ends. Speaker phones pick up all manner of background noises, causing interference. If a party steps away from the in-court microphone, an interpreter will have difficulty hearing. In addition, speaker phones often cut off one party when another makes noise, such as a cough, sneeze, or intake of breath.

### **What type of training is required for providers and end-users of telephone interpreting?**

Providers require training specific to telephone interpreting. Interpreters need training not only in the proper use of equipment, but in techniques to control turn-taking and request repetitions or clarifications. An interpreter will need to practice using auditory cues instead of visual cues, and to focus more on these elements to ensure a high-quality interpretation. Interpreters also need to be well-versed in the ethical principles and standards of practice for telephone interpreting.<sup>7</sup>

End-users of telephone interpreting services must also be trained. Those who use these services must be mindful of auditory elements that may create confusion or problems for the remote interpreter. For example, a judge who has been trained to work with telephone interpreters is more likely to:

- Perform a "sound check" to make sure the interpreter can hear all parties properly before proceeding;
- Speak clearly and at a slower rate of speech;
- Remind others in the courtroom to be as quiet as possible;
- Direct individuals to leave the courtroom if they are interfering with the interpreter's ability to hear;
- Tell speakers to identify themselves each time

they speak so that the interpreter can more easily discern the voices;

- Ask parties to speak into the microphone so that the interpreter can hear;
- Ask individuals to speak in brief segments for easier interpretation;
- Direct parties when to pause, so that the interpretation can be rendered.

### **Is it appropriate for courts to use telephone interpreting for any setting involving individuals with limited English proficiency (LEP)?**

Courts and legal service providers would be ill-advised to rely exclusively on telephone interpreting for every LEP encounter, given the array of options at their disposal. While telephone interpreting may seem like it first appear to be an easy and simple solution, the cost of a commercial service can be significant if used with great frequency. Where demand for interpreting in a given language is high, it is usually more cost-effective to contract with a local interpreter, since in-person interpretation offers other benefits as well.

For example, on-site interpreters become well-versed in the speech patterns, local accents and terminology preferences of the court staff, making them more efficient than a telephone interpreter who is new to the setting and may need to request more repetitions. Further, since commercial telephone interpreting services do not offer simultaneous interpretation, interviews or other events can take twice as long over the telephone.

For high-demand languages, such as Spanish in most parts of the United States, telephone interpreting is usually used in addition to local interpreters. Video interpreting, already common with sign language interpreting, is becoming more widely used for spoken languages as well. However, video interpreting, too, requires special training and equipment to ensure high-quality service.

In recent years, shortages of certified or otherwise qualified interpreters have been highlighted in the media. Incentives and recruitment campaigns, as well as retention policies, should be considered to increase pools of qualified interpreters. It is NAJIT's position that when a state has certified and qualified interpreters available, they should tap into existing resources to provide in-person interpreting services first. If an existing pool of professionals is not utilized, these individuals will

naturally seek other employment or move to other states, thus creating a greater deficit of qualified interpreters when the need increases.

In summary, courts, legal service providers and other justice partners should not use telephone interpreting as their sole means of providing language access to LEP populations. Creating a comprehensive LEP plan entails more than arranging for a dial-up interpreter whenever services are needed. Preparing to communicate with linguistically diverse populations requires multiple methods of language service delivery.

### Conclusion

Telephone interpreting is an important component of access plans for LEP individuals when local interpreting resources are unavailable. Especially in low-demand languages for which qualified in-person interpreters are not always readily available, telephone interpreting is an invaluable service. However, telephone interpreting is not optimal for many settings, and the telephone should never be the sole means by which language services are provided. Courts and providers of legal services may rely on telephone interpreting to meet some needs, but telephone interpreting alone cannot constitute a full-scale language access plan.

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### ■ References

(Endnotes)

- 1 Mintz, D. (1998). *Hold the Phone: Telephone Interpreting Scrutinized*. Proteus, Vol. VII, No. 1. [http://www.najit.org/members\\_only/proteus/back\\_issues/phoneinterp.htm](http://www.najit.org/members_only/proteus/back_issues/phoneinterp.htm)
- 2 For recommendations concerning length of interpreted proceedings, see the NAJIT Position Paper, *Team Interpreting in the Courtroom*, [http://najit.org/documents/Team\\_Interpreting.pdf](http://najit.org/documents/Team_Interpreting.pdf).
- 3 <http://www.uscourts.gov/library/annualreports/2007/2007%20FINAL%20REPORT.pdf>, p.36
- 4 *2008 Annual Report of the Director*, Administrative Office of the U.S. Courts, forthcoming.
- 5 For a sample set of interpreter voir dire questions, see: <http://www.tsc.state.tn.us/geninfo/programs/interpreters/voirdire.doc>
- 6 Southeast Asian subcommittee of the Asian American/Pacific Islander work group, National Diabetes Education Program. *Silent Trauma: Diabetes, Health Status, and the Refugee Southeast Asians in the United States*. <http://www.ndep.nih.gov/diabetes/pubs/SilentTrauma.pdf>
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Issued February 27, 2009



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